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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,608	11/12/2003	Jorn Maeritz	10808/111	5868
48581	7590	05/18/2007	EXAMINER	
BRINKS HOFER GILSON & LIONE			MOFFAT, JONATHAN	
INFINEON			ART UNIT	
PO BOX 10395			PAPER NUMBER	
CHICAGO, IL 60610			2863	
MAIL DATE		DELIVERY MODE		
05/18/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)
	10/706,608	MAERITZ, JORN
Examiner	Art Unit	
Jonathan Moffat	2863	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
- (b)  They raise the issue of new matter (see NOTE below);
- (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached examiner's response to arguments.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.

13.  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendments to the claims, filed 4/19/2007, are accepted and appreciated by the examiner. The examiner believes that the proposed amended changes to claims 1 and 10-16 simplify the language and place it in better form.

### ***Response to Arguments***

Applicant's arguments filed 4/19/2007 have been fully considered but they are not persuasive.

The examiner disagrees with the applicant's stated distinction between the claims and the prior art. As stated in previous office actions and maintained herein, the examiner attests that one of ordinary skill in the art at the time of invention would have known the benefits of an automated process over a human inspection. The state of the art is such that automated inspections are well known and commonly employed. Further, reference Whitefield does not bar such an improvement. The cited portion of the reference "an operator or technician takes readings on the wafer either by direct inspection... or by processing the wafer through a specialized test instrument..." (Emphasis added). This seems to indicate that such a modification was understood. Even in fully automated facilities, technicians are at least present to read reports and maintain equipment. The advantage to automation is that many tools may be monitored by one technician since less work is required of him. The specialized test instrument of Whitefield could then easily be an automated test equipment, especially since it is disclosed as being opposed to "direct inspection". The claim language specifies only "an evaluation unit" which lends itself to many interpretations. Any analysis means operably connected to further

Art Unit: 2863

means for determining and marking the wafers would meet the language. This could include an operator performing manual analysis, an operator using an analysis machine, a machine performing analysis under supervision of a user, etc.

The applicant states that reference Whitefield discloses an operator inspecting “a process unit like a wafer, rather than a process parameter of a manufacturing process as recited in the independent claims”. While the examiner agrees that Whitefield discloses inspecting a wafer, the examiner disagrees with the assertion that the inspection of properties of a manufactured and processed wafer is not an inspection of a parameter of the manufacturing process. Each feature of the wafer is created by, a result of, and therefore indicative of the processing steps. Therefore, each inspected feature of a wafer is also indicative of a process of the manufacture and is therefore a parameter of the manufacturing process.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Moffat whose telephone number is (571) 272-2255. The examiner can normally be reached on Mon-Fri, from 7:30-4:00.

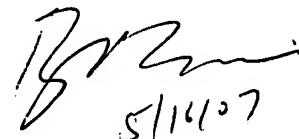
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/15/07

JM

BRYAN BUI  
PRIMARY EXAMINER



5/16/07